First, ſome few are grieved, and do repent for that they have been miſlead and bewitched (like fooliſh *Galathians*) to withſtand the Truth, and ſo hainouſly to offend ſo good, ſo gracious, and ſo pious a King, whoſe unſpotted Honour and untainted converſation is ſlander-proofe, and againſt all batteries of calumnie impregnable, who is an unmatchable pattern for Princes, and Subjects for imitation, either in ruling or obeying. A ſecond ſort of Us (being too great a number) are not ſo much grieved for the wickedneſſe we have done, as we are vexed at the very ſoules becauſe we want power and meanes to make ſatisfaction by doing more miſchiefe. And laſtly, very many of Us are inwardly and outwardly perplexed in bodie and minde, being much troubled in our mindes with the griefes which we feele in our bodies, who have been miſerably beaten, bruiſed, maimed and wounded, by his Majeſties ſucceſſull, mightie, and victorious Armies, and our ſorrowes are ſo feeling unto Us, that we are more troubled and moleſted in conſciences for the paines we ſuffer than we are ſenſible of the villanies we have committed.

I commend your grave wiſedomes, in that you neither command or forbid the Book of Common Prayer, for if you ſhould put it quite down, you know it is flat againſt Statutes and the grounded eſtabliſhed Lawes of this Land; on the other ſide, if you ſhould command it to be ſaid (as it ought to be) then you ſhould loſe not onely the affections but alſo the Contributions of our deare Brethen (the *Anabatiſts* and *Browniſts*) they would all quickly vaniſh like bubbles. beſides that Book is a trap or ſnare whereby you may catch the Malignant partie (as boyes catch tit mice in pit-fals) for you know that none but Proteſtants and the Kings beſt Friends will heare that Book read; on the contrary, not any one of our ſide, can abide it, therefore the Malignants may be perfectly known, that way, and by ſo knowing them, you may know who to impriſon, plunder, or hang, and who to ſpare and reward, beſides it is a rare piece of wiſedom in you to allow eaveſ-droppers and promoting knaves to be as Mouce-traps to catch words, and undo all ſuch as wiſh well to the King, and hang as many as ſhall dare to drinke Prince *Reberts* health. It is reported that you have made a ſixfold government, wherein neither God or the King hath any thing to do; as firſt, the Houſe of Lords are obedient to the Houſe of Commons; ſecondly, the Houſe of Commons is ruled by the cloſe Committee; thirdly, the cloſe Committee are commanded by the Common-Councell; fourthly, the Common-Councell are guided by their wives; fifthly, their wives are inſtructed by the zealous-ſeditious Lecturers; and laſtly, theſe firebrand Lecturers are taught and tutor'd by the devill. With whom at this time I leave you my moſt deare and laborious Brethren (in the Cauſe) with this requeſt that you have an eſpeciall care that this Letter be not printed at *London*, I pray you let me heare from you the next returne of *Tom Long*, he is one that you may confide in, for he may be truſted with untold hail-ſtones. you know that your name begins with a Greek Π, and mine a Μ for *Humphrey*, ſo farewell. *Finis.*

First, ſome few are grieved, and do repent for that they have been miſlead and bewitched (like fooliſh *Galathians*) to withſtand the Truth, and ſo hainouſly to offend ſo good, ſo gracious, and ſo pious a King, whoſe unſpotted Honour and untainted converſation is ſlander-proofe, and againſt all batteries of calumnie impregnable, who is an unmatchable pattern for Princes, and Subjects for imitation, either in ruling or obeying. A ſecond ſort of Us (being too great a number) are not ſo much grieved for the wickedneſſe we have done, as we are vexed at the very ſoules becauſe we want power and meanes to make ſatisfaction by doing more miſchiefe. And laſtly, very many of Us are inwardly and outwardly perplexed in bodie and minde, being much troubled in our mindes with the griefes which we feele in our bodies, who have been miſerably beaten, bruiſed, maimed and wounded, by his Majeſties ſucceſſull, mightie, and victorious Armies, and our ſorrowes are ſo feeling unto Us, that we are more troubled and moleſted in conſciences for the paines we ſuffer than we are ſenſible of the villanies we have committed.

I commend your grave wiſedomes, in that you neither command or forbid the Book of Common Prayer, for if you ſhould put it quite down, you know it is flat againſt Statutes and the grounded eſtabliſhed Lawes of this Land; on the other ſide, if you ſhould command it to be ſaid (as it ought to be) then you ſhould loſe not onely the affections but alſo the Contributions of our deare Brethen (the *Anabatiſts* and *Browniſts*) they would all quickly vaniſh like bubbles. beſides that Book is a trap or ſnare whereby you may catch the Malignant partie (as boyes catch tit mice in pit-fals) for you know that none but Proteſtants and the Kings beſt Friends will heare that Book read; on the contrary, not any one of our ſide, can abide it, therefore the Malignants may be perfectly known, that way, and by ſo knowing them, you may know who to impriſon, plunder, or hang, and who to ſpare and reward, beſides it is a rare piece of wiſedom in you to allow eaveſ-droppers and promoting knaves to be as Mouce-traps to catch words, and undo all ſuch as wiſh well to the King, and hang as many as ſhall dare to drinke Prince *Reberts* health. It is reported that you have made a ſixfold government, wherein neither God or the King hath any thing to do; as firſt, the Houſe of Lords are obedient to the Houſe of Commons; ſecondly, the Houſe of Commons is ruled by the cloſe Committee; thirdly, the cloſe Committee are commanded by the Common-Councell; fourthly, the Common-Councell are guided by their wives; fifthly, their wives are inſtructed by the zealous-ſeditious Lecturers; and laſtly, theſe firebrand Lecturers are taught and tutor'd by the devill. With whom at this time I leave you my moſt deare and laborious Brethren (in the Cauſe) with this requeſt that you have an eſpeciall care that this Letter be not printed at *London*, I pray you let me heare from you the next returne of *Tom Long*, he is one that you may confide in, for he may be truſted with untold hail-ſtones. you know that your name begins with a Greek Π, and mine a Μ for *Humphrey*, ſo farewell. *Finis.*

171

AN OLD MOULD
TO CAST NEW LAWES BY;

COMPILED

By the Honourable Sir *Thomas Smith*
Knight, Doctor of both Lawes, and one
of the Principall Secretaries unto two
most worthy Princes,
King EDWARD, & Queen ELIZABETH.

Reprinted out of the Common-wealth of ENGLAND,
by a friend to old Bookes, and an Enimy
to new Opinions.

TOGETHER,

With King JAMES His Declaration to both
Houses at *White-hall*, of the Kings Power in the
Parliament of *Scotland* in making Lawes.
March 31. 1607.

Remember the dayes of old, Consider the years of many Generations; ask thy Father, and he will shew thee, thy Elders and they will tell thee. Deut. 32.7.

Vir bonus est Quis? Answer is made,
Qui consulta Patrum, qui Leges juraq; servat.

Printed, M. DC. XLIII.

163509

172

OF THE PARLIAMENT, and the Authority thereof.

THe most high and absolute power of the Realme of England consisteth in the Parliament. For as in Warre where the King himselfe in Person, the Nobility, the rest of the Gentility and the Yeomanry are, is the force and power of England: so in Peace and Consultation where the Prince is to give life, and the last and highest Commandement: the Barrony or the Nobility for the higher: the Knights, Esquires, Gentlemen and Commons for the lower part of the Common-wealth, the Bishops for the Clergy be present to advertise, consult, and shew what is good and necessary for the Common-wealth, and to consult together, and upon mature deliberation every Bill or Law being thrice read and disputed upon in either House, the other two parts, first each a part, and after the Prince himselfe in presence of both the parties doth consent unto, & alloweth. That is the Prince's and the whole Realmes deed: whereupon justly no man can complain, but must accommodate himselfe to find it good and obey it.

That which is done by this consent is called Firme, Stable, and *Sanctum*, and is taken for Law. The Parliament abrogateth old Lawes, maketh new, giveth order for things past, and for things hereafter to be followed, changeth rights and possessions of private men, legitimateth bastards, establisheth formes of Religion, altereth waights and measures, giveth forme of succession to the

Crown, defineth of doubtfull rights, whereof is no Law already made, appoynteth Subsidies, Tailes, Taxes and impositions, giveth moſt free pardons & abſolutions, reſtoreth in blood & name, as the higheſt Court, condemneth or abſolveth them whom the Prince will put to that tryall. And to be ſhort, all that ever the People of Rome might doe, either in *Centuriatis Comitiis* or *tributis*; the ſame may be done by the Parliament of England, which repreſenteth and hath the power of the whole Realme, both the head and the body. For every Engliſh man is intended to be there preſent, either in Perſon, or by Procuration, or Atturney of what Prehemineence, State, Dignity or Quality ſoever he be, from the Prince (be he King or Queen) to the loweſt Perſon of England. And the conſent of the Parliament is taken to be every mans conſent.

The Iudges in Parliament are the King or Queens Majeſty, the Lords Temporall and Spirituall, the Commons preſented by the Knights and Burgeſſes of every Shire and Burrough Town. Theſe all, or the greateſt part of them, and that with the conſent of the Prince for the time being muſt agree to the making of Lawes.

The officers in Parliament are the Speakers, two Clarkes, the one for the Higher Houſe, the other for the Lower, and Committees.

The Speaker is he that doth commend and preferre the Bills exhibited into the Parliament, and is the Mouth of the Parliament. He is commonly appoynted by the King or Queen, though accepted by the aſſent of the Houſe.

The Clarkes are the keepers of the Parliament Rolles and Records, and of the Statutes made, and have the cuſtody of the private Statutes not Printed.

The Committees are ſuch as either the Lords in the Higher Houſe, or Burgeſſes in the Lower Houſe, doe chuſe to frame the Lawes upon ſuch Billes as are agreed upon, and afterward to be ratified by the ſame Houſes.

Of the forme of holding the Parliament.

THe Prince ſendeth forth His reſcripts or writs to every Duke, Marqueſſe, Baron, and every other Lord Temporall or Spiritu-

all

all, who hath voyce in the Parliament, to be at his great Councell of Parliament such a day (the space from the date of the writ is cõmonly at the least 40. dayes) He sendeth also writs to the Sheriffes of every Shire, to admonish the whole Shire to chuse two Knights of the Parliament in the name of the Shire, to heare, and reason, and to give their advice and consent in the name of the Shire, and to be present at that day: likewise to every Citty and Towne, which of ancient time hath been wont to find Burgesses of the Parliament, so to make election that they may be present at the first day of the Parliament. The Knights of the Shire be chosen by all the Gentlemen and Yeomen of the Shire, present at the day assigned for the election: the voyce of any absent can be counted for none. Yeomen I call here (as before) that may dispend at the least 40^{s}. of yearly rent of free land of his own. These meeting at one day, the two who have the more of their voyces, be chosen Knights of the Shire for that Parliament: likewise by the plurality of the voyces of the Cittizens & Burgesses, be the Burgesses elected. The first day of the Parliament the Prince and all the Lords in their Robes of Parliament doe meet in the Higher House, where after prayers made, they that be present are written, and they that be absent upon sicknesse, or some other reasonable cause, (which the Prince will allow) doe constitute under their hand and Seale, some one of these who be present, as their *Procurer*, or Atturney, to give voyce for them, so that by presence or Atturney and *Proxy* they be all there, all the *Princes* and Barons, and all Arch-Bishops and Bishops, and (when Abbots were) so many Abbots as had voyce in *Parliament*. The place where the assembly is, is richly Tapessed and Hanged, a Princely and Royall Throne as appertaineth to a King, set in the midst of the higher place thereof. Next under the *Prince* sitteth the Chancellor, who is the voyce and Orator of the *Prince*. On the one side of that House or Chamber, sitteth the Arch-bishops & Bishops each in his ranke; on the other side the Dukes and Barons.

In the midst thereof upon Woolsacks sit the Iudges of the Realme, the Master of the Rolles, and the Secretaries of State. But these that sit on the Woolsacks have no voyce in the House, but only sit there to answer their knowledge in the Law, when they be askt if any doubt arise among the Lords. The Secretaries doe an-

ſwer of ſuch Letters or things paſſed in Councell whereof they have the cuſtody and knowledge, and this is called the Vpper Houſe, whoſe conſent and diſſent is given by each man ſeverally, and by himſelfe, firſt for himſelfe, and then ſeverally for as many as he hath Letters and Proxies, when it cometh to the queſtion, ſaying only content or not content, without farther reaſoning or replying. In this mean time the Knights of the Shires, and Burgeſſes of the Parliament (for ſo they are called that have voyce in Parliament, and are Choſen as I have ſaid before to the number betwixt three and foure Hundred) are called by ſuch as it pleaſeth the Prince to appoynt, into an open great houſe or chamber by name, to which they anſwer: and declaring for what Shire or Town they anſwer, then they are willed to chooſe an able and diſcreet man, to be as it were the mouth of them all, and to ſpeak for, and in the name of them, and to preſent him ſo choſen by them to the Prince: which done they comming all with him to the Barre, which is at the nether end of the upper Houſe, there he firſt prayſeth the Prince, then maketh his excuſe of inability, and prayeth the Prince that He would command the Commons to chooſe another. The Chancellor in the Princes name doth ſo much declare him able, as he did declare himſelfe unable, and thanketh the Commons for chooſing ſo wiſe diſcreet and eloquent a man, and willeth them to goe and conſult of Lawes for the Common-wealth. Then the Speaker maketh certain requeſts to the Prince in the name of the Commons, Firſt, that His Majeſty would be content, that they may uſe and injoy all their Liberties & priviledges that the Commons Houſe was wont to injoy.

Secondly, that they may frankly and freely ſay their minds in diſputing of ſuch matters as may come in queſtion, and that without offence to His Majeſty.

Thirdly, if any ſhould chance of that Lower Houſe to offend, or not to doe or ſay as ſhould become him, or if any ſhould offend any of them being called to that His Majeſties Highneſſe Court, that they themſelves (according to the ancient cuſtome) might have the puniſhment of them. And fourthly, that if there came any doubt whereupon they ſhall deſire to have the advice, or conference with His Majeſty, or with any of the Lords, that they might doe it; all which

which he promiſeth in the Commons names, that they ſhall not abuſe, but have ſuch regard, as moſt faithfull, true, and loving Subjects ought to have to their Prince.

The Chancellor anſwereth in the Princes Name as appertaineth. And this is all that is done for one day, and ſometimes for two. Beſides the Chancellor, there is one in the upper Houſe, who is called the Clarke of the *Parliament*, who readeth the Bills. For all that commeth in conſultation either in the upper Houſe, or in the neather Houſe, is put in writing firſt in paper, which being onee read he that will, riſeth up, and ſpeaketh with it or againſt it, and ſo one after another ſo long as they ſhall thinke good: That done, they go to another, & ſo to another Bill. After it hath been once or twice read, and doth appeare that it is ſomewhat liked as reaſonable, with ſuch amendment in words and peradventure ſome ſentences, as by diſputation ſeemeth to be amended, in the upper Houſe the Chancellor asketh, if they will have it ingroſſed, that is to ſay, put into Parchment: which done; & read the third time, and that eft-ſoones, if any be diſpoſed to object, diſputed againe among them, the Chancellor asketh if they will go to the queſtion: and if they agree to go to the queſtion, then he ſaith, here is ſuch a Law, or Act concerning ſuch a matter, which hath been thrice read here in this Houſe, are ye content that it be enacted or no? If the not contents be more, then the Bill is daſhed, that is to ſay, the Law is annihilated, and goeth no farther. If the contents be the more, then the Clarke writeth underneath: *Soit baille aux Commons.* And ſo when they ſee time, they ſend ſuch Bills as they have approved, by two or three of thoſe which doe ſit on the wool-ſacks to the Commons, who asking licence, and comming into the houſe with due reverence, ſaith to the ſpeaker: Maiſter ſpeaker, my Lords of the upper Houſe, have paſſed among them, and thinke good that there ſhould be enacted by Parliament ſuch an Act, & ſuch an Act, and ſo readeth the titles of that Act or Acts. They pray you to conſider of them, & ſhew them your advise; which done, they go their way. They being gone, and the doore againe being ſhut, the Speaker rehearſeth to the houſe what they ſaid. And if they be not buſie diſputing at the time in another Bill, he asketh them ſtraight way, if they will have that Bill, or (if there be moe) one of them.

In

In like manner in the lower Houſe, the Speaker ſitting in a ſeat or chayre for that purpoſe, ſomewhat higher, that he may ſee, and be ſeene of them all, hath before him in a lower ſeat his Clarke, who readeth ſuch Bills as be firſt propounded in the lower Houſe, or be ſent down from the Lords. For in that point each Houſe hath equall authority to propound what they thinke meet, either for the abrogating of ſome Law made before, or for making of a new. All Bills be thrice in three divers dayes read, and diſputed upon before they come to queſtion. In the diſputing is a marvailous good order uſed in the lower Houſe. He that ſtandeth up bare-headed, is underſtanded that he will ſpeake to the Bill. If more ſtand up, who that is firſt judged to ariſe, is firſt heard, though the one doe praiſe the Law, the other diſſwade it, yet there is no alteration. For every man ſpeaketh as to the Speaker, not as one to another, for that is againſt the order of the houſe. It is alſo taken againſt the order to name him, whom ye doe confute, but by circumlocution, as he that ſpeaketh with the Bill, or he that ſpeaketh againſt the Bill, and gave this and this reaſon. And ſo with perpetuall oration, not with alteration, he goeth through till he have made an end. He that once hath ſpoken in a Bill, though he be confuted ſtrait, that day may not reply, no though he would change his opinion. So that to one Bill in one day, one may not in that Houſe ſpeake twice, for elſe one or two with alteration would ſpend all the time; the next day he may, but then alſo but once. No reviling or nipping words muſt be uſed. For then all the Houſe will cry 'tis againſt the order, and if any ſpeake irreverently or ſeditiouſly againſt the Prince or the privy Counſell, I have ſeene them not only interrupted, but it hath been moved after to the Houſe, and they have ſent them to the Tower. So that in ſuch a multitude, and in ſuch a diverſity of minds, and opinions, there is the greateſt modeſty and temperance of ſpeech that can be uſed. Nevertheleſſe with much dulce and gentle termes, they make their reaſons as violent, and as vehement the one againſt the other, as they may ordinarily, except it be for urgent cauſes, and haſting of time. At the afternoone they keep no Parliament. The Speaker hath no voice in the Houſe, nor will they ſuffer him to ſpeake in any Bill to move or diſſwade it. But when any Bill is read, the Speakers office is, as briefly and as plainly as he may, to declare the effect thereof

to

175

to the House. If the Commons doe assent to such Bills as be sent to them, first agreed upon from the Lords thus subscribed, *Les Communs ont assentus*; so if the Lords doe agree to such Bills as be first agreed upon by the Commons, they send them downe to the Speaker, thus subscribed, *Les Seigneurs ont assentus*: if they cannot agree, the two Houses (for every Bill from whence soever it doth come is thrice read in each of the Houses) if it be understood that there is any sticking, sometimes the Lords to the Commons, sometimes the Commons to the Lords doe require that a certaine of each House may meet together, and so each part be informed of others meaning, and this is alwayes granted. After which meeting for the most part, not alwayes, either part agrees to others Bills.

In the upper House they give their assent and dissent each man severally by himselfe; first for himselfe, and then for so many as he hath Proxy. When the Chancellor hath demanded of them, whether they will go to the question, after the Bill hath been thrice read? they saying only content or not content, without further reasoning or replying, and as the more number doth agree, so is it agreed on or dashed.

In the neather House none of them that is elected, either Knight or Burgesse can give his voyce to another, nor his consent or dissent by Proxy. The more part of them that be present only maketh the consent or dissent. After the Bill hath been twice read, and then ingrossed, and eft-soones read and disputed on enough as is thought, the Speaker asketh, if they will go to the question, and if they agree? he holdeth the Bill up in his hand, and saith, as many as will have this Bill go forward, which is concerning such a matter, say, yea. Then they which allow the Bill, cry yea, and as many as will not, say no: as the cry of yea, or no is bigger, so the Bill is allowd or dashed. If it be a doubt which cry is bigger, they divide the House, the Speaker saying, as many as doe allow the Bill, go downe with the Bill, and as many as doe, not sit still. So they divide themselves, and being so divided, they are numbred who made the more part, and so the Bill doth speed. It chanceth sometime that some part of the Bill is allowed, some other part hath much controversie and doubt made of it, and it is thought if it were amended it would go forward. Then they chuse certains *Committees* of them who have

ſpoken with the Bill, and againſt it, to amend it, and bring it again ſo amended, as they amongſt them ſhall think meet: and this is before it is ingroſſed, yea and ſometime after. But the agreement of theſe Committees is no prejudice to the Houſe. For at the laſt queſtion they will accept it or daſh it, as it ſhall ſeem good, notwithſtanding that whatſoever the Committees have done.

Thus no Bill is an Act of Parliament, Ordinance, or Edict of Law, untill both the Houſes have ſeverally agreed unto it after the order aforeſaid, no nor then neither. But the laſt day of that Parliament or Seſſion, the Prince cometh in Perſon in His Parliament Robes, and ſitteth in His State, all the upper houſe ſitteth about the Prince in their States and order in their Robes. The Speaker with all the Commons Houſe cometh to the Barre, and there after thanks-giving firſt in the Lords name by the Chancellor &c. And in the Commons name by the Speaker to the Prince, for that He hath ſo great care of the government of His People, and for calling them together to adviſe of ſuch things as ſhould be for the Reformation, eſtabliſhing and ornament of the Common-wealth: The Chancellor in the Princes name giveth thankes to the Lords and Commons, for their pains and travailes taken, which he the ſaid Prince will remember and recompence when time and occaſion ſhall ſerve, and that he for his part is ready to declare his pleaſure concerning their proceedings, whereby the ſame may have perfect life and accompliſhment, by His Princely authority, and ſo have the whole conſent of the Realme. Then one reads the Titles of every Act, which hath paſſed at that Seſſion, but only in this faſhon: An Act concerning ſuch a thing, &c. It is marked there what the Prince doth allow, and to ſuch he ſaith *Le Roy*, or *La Royn le vult*. And thoſe be taken now as perfect Lawes, and Ordinances of the Realme of England, and none other, and as ſhortly as may be put in Print, except it be ſome private cauſe, or Law made for the benefit or prejudice of ſome private man, which the Romans were wont to call *Privilegia*. Theſe be only exemplified under the Seale of the Parliament, and for the moſt part not Printed. To thoſe which the Prince liketh not he anſwereth *Le Roy* or *La Royne ſaduiſera*, and thoſe be accounted utterly daſned and of none effect.

This is the Order and Forme of the higheſt and moſt authenticall Court

176

Court of England, by virtue whereof all those things be established whereof I spake before, and no other means accounted availeable to make any new forfeiture of Life, Member, or Lands of any English man, where there was no Law ordained for it before,

King IAMES His Declaration to both Houses at *White-Hall*, of the Kings power in the Parliament of SCOTLAND *in making Lawes*,

March 31. 1607.

IT hath been objected as another impediment, That in the Parliament of *Scotland* the King hath not a Negative voyce, but must passe all the Lawes agreed on by the Lords and Commons.

Of this I can best resolve you, for I am the eldest Parliament man in Scotland, and have sate in more Parliaments then all my Predecessors. I can assure you, that the forme of Parliament there is nothing inclined to Popularity. About a twenty dayes or such a time before the Parliament, Proclamation is made through the Kingdom, to deliver into the Kings Clark of Register (whom ye here call the Master of the Rolles) all Billes to be exhibited that Sessions, before a certain day. Then are they brought unto the King, and perused and considered by Him; and only such as I allow of are put into the Chancellors hands, to be propounded to the Parliament and none others. And if any man in Parliament speak of any other matter, then is in this forme first allowed by me, the Chancellor tells him there is no such Bill allowed by the King.

Beſides when they have paſſed them for Lawes, they are preſented unto Mee, and I with my Scepter put into my hand by the Chancellor, muſt ſay, I ratify and approve all things done in this preſent Parliament: And if there be any thing that I diſlike they race it out before: If this may be called a Negative Voyce; then I have one I am ſure in that Parliament.

If I have ſpoken evill bear witneſſe of the evill, but if well, why ſmiteſt thou mee? Ioh. 18. 23.

If I have ſaid any thing amiſſe tell me.
Eraſ. Paraph.

FINIS.

---

(177) ~~[illegible]~~

(20.